

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

IN ADMIRALTY

SWEET CAROLINE MARINE, LTD
a Republic of the Marshall Islands Corporation,

Case No. 23-CV-61754-DMM

Plaintiff,

v.

M/Y SWEET CAROLINE, her engines, machinery, tackle, apparel, boats, furniture, equipment, rigging, freights, and all other necessary appurtenances, etc., *in rem*, and AVYC, LLC, a Republic of the Marshall Islands Corporation, *in personam*.

Defendant(s).

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ORDER APPOINTING SUBSTITUTE CUSTODIAN

THIS CAUSE is before the Court upon Plaintiff, Sweet Caroline Marine, LTD's ("Sweet Caroline Marine" or "Plaintiff") Motion for Appointment of Substitute Custodian (D.E. 7), and the Court having carefully considered said Motion, the Affidavit of Substitute Custodian, the Consent and Indemnification Agreement (D.E. 8), and reviewed the Court file and being otherwise fully advised in the premises, it is hereby:

ORDERED AND ADJUDGED that Plaintiff Sweet Caroline's Motion for Appointment of G. Robert Toney and Associates Inc. d/b/a National Liquidators as Substitute Custodian (D.E. 7) be and the same is hereby GRANTED. It is further;

ORDERED AND ADJUDGED that the United States Marshal for the Southern District of Florida be, and the same is hereby authorized and directed, upon receipt of this Order to surrender the possession of the Defendant vessel, M/Y "Sweet Caroline," a Jamaica flagged, 2008 127' IAG

motor yacht, Maritime Mobile Service Identity (MMSI) 339952000 ("M/Y SWEET CAROLINE"), along with her engines, machinery, tackle, apparel, boats, furniture, equipment, rigging, freights, and all other necessary appurtenances, etc. (hereinafter the "Vessel"), *in rem*, pursuant to said Warrant of Arrest, to surrender the possession thereof to the custody of the Substitute Custodian, and that upon such surrender, the Marshal shall be discharged from his duties and responsibilities for the safekeeping of said Vessel and held harmless from any and all claims arising whatever out of said substituted possession and safekeeping. It is further;

ORDERED AND ADJUDGED that G. Robert Toney and Associates Inc. d/b/a National Liquidators, shall be, and is hereby appointed the custodian of said Vessel to retain the same in his custody for possession and safekeeping for the aforementioned compensation until further order of this Court. It is further;

ORDERED AND ADJUDGED that the Substitute Custodian herein shall, at the discretion of the Vessel owner or the Plaintiff, and by appointment only, permit prospective purchasers to board and inspect the Vessel. It is further;

ORDERED AND ADJUDGED that all Marshal's costs be paid prior to the release of the Defendant Vessel or distribution of the proceeds of its sale, and all further constructive costs will be borne by Plaintiff unless the Plaintiff is awarded expenses and costs against the Defendant Vessel. It is further;

ORDERED AND ADJUDGED that all reasonable expenditures which may be incurred by the United States of America and the Substitute Custodian, or by any party advancing funds to the Substitute Custodian, in towing the Vessel to its facility, safekeeping and maintaining the Vessel while she is in *custodia legis* shall be administrative expenses in this action and a first charge on

the Defendant Vessel herein, to be paid prior to the release of the Vessel or the distribution of proceeds. It is further;

ORDERED AND ADJUDGED that the Substitute Custodian must sign a receipt for the Vessel and the Marshal must attest to the date and time of release on a U.S. Marshal's Return. It is further;

ORDERED AND ADJUDGED that the premiums charged for the Marshal's liability insurance will be taxed as an expense of custody while the Vessel is in *custodia legis* pursuant to the applicable Local Admiralty Rule.

HON. DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

Copies furnished to:

All Counsel of Record